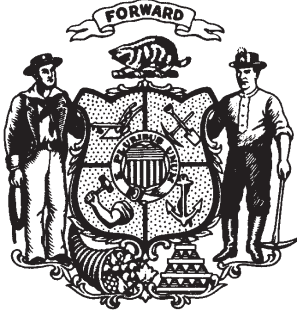


State of Wisconsin



2009 Assembly Bill 659

Date of enactment: **April 21, 2010**

Date of publication*: **May 5, 2010**

2009 WISCONSIN ACT 209

AN ACT *to repeal* 49.686 (1) (g), 252.15 (1) (ab), 252.15 (1) (d), 252.15 (1) (e), 252.15 (2) (title), 252.15 (2) (a) (intro.), 252.15 (2) (a) 4., 252.15 (2) (am), 252.15 (2) (b), 252.15 (2) (bm), 252.15 (3), 252.15 (4) (a), 252.15 (5) (a) 11., 252.15 (5) (a) 15. and 252.15 (5) (a) 18.; *to renumber* 252.15 (5) (a) 3., 252.15 (5) (a) 5. and 252.15 (5) (a) 8. and 9.; *to renumber and amend* 252.15 (2) (a) 1., 252.15 (2) (a) 1g., 252.15 (2) (a) 2., 252.15 (2) (a) 3., 252.15 (2) (a) 6., 252.15 (2) (a) 7. a., 252.15 (2) (a) 7. ai., 252.15 (2) (a) 7. ak., 252.15 (2) (a) 7. am., 252.15 (2) (a) 7. ap., 252.15 (2) (a) 7. ar., 252.15 (2) (a) 7. at., 252.15 (2) (a) 7. av., 252.15 (2) (a) 7. b., 252.15 (2) (a) 7. c., 252.15 (2) (a) 7. d., 252.15 (2) (a) 7m., 252.15 (5) (title), 252.15 (5) (a) (intro.), 252.15 (5) (a) 1., 252.15 (5) (a) 2., 252.15 (5) (a) 4., 252.15 (5) (a) 6., 252.15 (5) (a) 7., 252.15 (5) (a) 10., 252.15 (5) (a) 12., 252.15 (5) (a) 13., 252.15 (5) (a) 14., 252.15 (5) (a) 17., 252.15 (5) (a) 19., 252.15 (5) (a) 20., 252.15 (5) (b), 252.15 (5m) (intro.), 252.15 (5m) (a), 252.15 (5m) (b) and 252.15 (5m) (c); *to amend* 48.371 (1) (a), 59.69 (15) (im), 60.63 (10m), 62.23 (7) (i) 9m., 101.02 (19) (a), 103.15 (title), 103.15 (2) (a), 103.15 (2) (b), 103.15 (3), 118.125 (2m) (b), 146.81 (4), 149.12 (1) (intro.), 252.01 (8), 252.11 (5m), 252.11 (7), 252.12 (2) (a) 3. d., 252.12 (2) (a) 5., 252.12 (2) (a) 7., 252.13 (title), 252.13 (1m), 252.13 (1r) (intro.), 252.13 (3), 252.13 (4), 252.13 (5), 252.14 (2) (intro.), 252.14 (3), 252.14 (4), 252.15 (title), 252.15 (1) (am), 252.15 (1) (em) (intro.), 252.15 (1) (fm), 252.15 (4) (intro.), 252.15 (4) (c), 252.15 (5m) (title), 252.15 (6), 252.15 (7) (title), 252.15 (7) (a), 252.15 (7) (b) (intro.), 252.15 (7) (b) 4., 252.15 (7) (b) 5., 252.15 (7) (c) 1., 252.15 (7) (c) 2., 252.15 (7m), 252.15 (8), 252.15 (9), 256.15 (12) (a), 440.20 (4), 631.90 (1), 631.90 (2) (a), 631.90 (2) (b), 631.90 (2) (c), 631.90 (3) (a), 631.90 (3) (b), 901.05 (2) (intro.), 938.296 (1) (d), 938.296 (2) (intro.), 938.296 (2) (b), 938.296 (4) (intro.), 938.296 (5) (intro.), 938.346 (1) (e), 938.371 (1) (a), 968.38 (1) (d), 968.38 (2) (intro.), 968.38 (2) (a), 968.38 (4) (intro.), 968.38 (5) (intro.), 973.017 (4) (b) 1. and 973.017 (4) (b) 2.; *to repeal and recreate* 252.15 (4) (b); and *to create* 103.15 (1) (bm), 252.01 (2m), 252.12 (1) (b), 252.12 (4), 252.133 (title), 252.14 (2m), 252.15 (1) (ac), 252.15 (2m) (title), 252.15 (2m) (a), 252.15 (2m) (b) (intro.), 252.15 (2m) (b) 4., 252.15 (2m) (b) 5., 252.15 (2m) (c), 252.15 (2r), 252.15 (3m) (b) 1. to 7., 252.15 (3m) (c), 252.15 (3m) (d) (intro.), 252.15 (3m) (e), 252.15 (3m) (f) 1., 252.15 (3m) (g), 252.15 (4) (bm), 252.15 (5g) (intro.) and (a), 252.15 (5g) (a) 6., 252.15 (5g) (g) 3., 252.15 (5j) (title), 252.15 (5m) (d) 1. (intro.), 252.15 (5m) (d) 2. and 3., 252.15 (5m) (e), 252.15 (7) (b) 5m., 252.15 (7r), 938.296 (1) (bm), 968.38 (1) (bc) and 973.017 (4) (a) 1m. of the statutes; **relating to:** HIV testing, disclosure of HIV test results, and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.371 (1) (a) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

48.371 (1) (a) Results of ~~a~~ an HIV test or a series of tests, as defined in s. 252.01 (2m), of the child ~~to determine the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 49. (3m) (d) 15.,~~ including results included in a court report or permanency plan. At the time that the HIV test results are provided, the agency shall notify the foster parent, treatment foster parent, relative, or operator of the group home or residential care center for children and youth of the confidentiality requirements under s. 252.15 (6).

SECTION 2. 49.686 (1) (g) of the statutes is repealed.

SECTION 3. 59.69 (15) (im) of the statutes is amended to read:

59.69 (15) (im) The fact that an individual with acquired immunodeficiency syndrome or a positive HIV test for the presence of HIV, as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV or an antibody to HIV (2m), resides in a community living arrangement with a capacity for 8 or fewer persons may not be used under par. (i) to assert or prove that the existence of the community living arrangement in the municipality poses a threat to the health, safety or welfare of the residents of the municipality.

SECTION 4. 60.63 (10m) of the statutes is amended to read:

60.63 (10m) The fact that an individual with acquired immunodeficiency syndrome or a positive HIV test for the presence of HIV, as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV or an antibody to HIV (2m), resides in a community living arrangement with a capacity for 8 or fewer persons may not be used under sub. (10) to assert or prove that the existence of the community living arrangement in the town poses a threat to the health, safety or welfare of the residents of the town.

SECTION 5. 62.23 (7) (i) 9m. of the statutes is amended to read:

62.23 (7) (i) 9m. The fact that an individual with acquired immunodeficiency syndrome or a positive HIV test for the presence of HIV, as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV or an antibody to HIV (2m), resides in a community living arrangement with a capacity for 8 or fewer persons may not be used under subd. 9. to assert or prove that the existence of the community living arrangement in the city poses a threat to the health, safety or welfare of the residents of the city.

SECTION 6. 101.02 (19) (a) of the statutes is amended to read:

101.02 (19) (a) The department shall, after consulting with the department of health services, develop a report form to document significant exposure to contact with blood or body fluids that constitutes a significant exposure, for use under s. 252.15 (2) (a) 7. ~~ak (5g) (c).~~ The form shall contain the following language for use by a person who may have ~~been significantly exposed had a significant exposure:~~ "REMEMBER — WHEN YOU

ARE INFORMED OF AN HIV TEST RESULT BY USING THIS FORM, IT IS A VIOLATION OF THE LAW FOR YOU TO REVEAL TO ANYONE ELSE THE IDENTITY OF THE PERSON WHO IS THE SUBJECT OF THAT TEST RESULT. (PENALTY: POSSIBLE JAIL AND UP TO \$10,000 \$50,000 FINE)".

SECTION 7. 103.15 (title) of the statutes is amended to read:

103.15 (title) Restrictions on use of ~~a~~ an HIV test for HIV.

SECTION 8. 103.15 (1) (bm) of the statutes is created to read:

103.15 (1) (bm) "HIV test" has the meaning given in s. 252.01 (2m).

SECTION 9. 103.15 (2) (a) of the statutes is amended to read:

103.15 (2) (a) Solicit or require an HIV test as a condition of employment of any employee or prospective employee ~~a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.~~

SECTION 10. 103.15 (2) (b) of the statutes is amended to read:

103.15 (2) (b) Affect the terms, conditions or privileges of employment or terminate the employment of any employee who obtains ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, as defined in s. 252.01 (2m).

SECTION 11. 103.15 (3) of the statutes is amended to read:

103.15 (3) Any agreement by an employer or agent of the employer and an employee or prospective employee offering employment or any pay or benefit to an employee or prospective employee in return for taking ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV is prohibited, except as provided under sub. (2) (intro.).

SECTION 12. 118.125 (2m) (b) of the statutes is amended to read:

118.125 (2m) (b) Any pupil record that concerns the results of ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, as defined in s. 252.01 (2m), shall be treated as provided under s. 252.15. ~~In this subsection, "HIV" has the meaning given in s. 252.01 (1m).~~

SECTION 13. 146.81 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

146.81 (4) "Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider; and all records made by an ambulance service provider, as defined in s. 256.01 (3), an emergency medical technician, as defined in s. 256.01 (5), or a first responder, as defined in s. 256.01 (9), in administering emergency care procedures to and handling and transporting sick, disabled, or injured individuals. "Patient health care records" includes billing statements and invoices for

treatment or services provided by a health care provider and includes health summary forms prepared under s. 302.388 (2). "Patient health care records" does not include those records subject to s. 51.30, reports collected under s. 69.186, records of tests administered under s. 252.15 (2) ~~(a) 7. (5g) or (5j)~~, 343.305, 938.296 (4) or (5) or 968.38 (4) or (5), records related to sales of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical health records maintained by a school under s. 118.125.

SECTION 14. 149.12 (1) (intro.) of the statutes is amended to read:

149.12 (1) (intro.) Except as provided in subs. (1m), (2), and (3), the authority shall certify as eligible a person who is covered by Medicare because he or she is disabled under 42 USC 423, a person who submits evidence that he or she has tested positive for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, a positive, validated HIV test result, as defined in s. 252.01 (8); a person who is an eligible individual; and any person who receives and submits any of the following based wholly or partially on medical underwriting considerations within 9 months prior to making application for coverage by the plan:

SECTION 15. 252.01 (2m) of the statutes is created to read:

252.01 (2m) "HIV test" means a test for the presence of HIV or an antibody to HIV.

SECTION 16. 252.01 (8) of the statutes is amended to read:

252.01 (8) "Validated HIV test result" means a result of ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV that meets the validation requirements determined to be necessary by the state epidemiologist.

SECTION 17. 252.11 (5m) of the statutes is amended to read:

252.11 (5m) A health care professional, as defined in s. 968.38 (1) (a), acting under an order of a court under s. 938.296 (4) ~~or (5)~~ or 968.38 (4) ~~or (5)~~ may, without first obtaining informed consent to the testing, subject an individual to a test or a series of tests to ascertain whether that individual is infected with a sexually transmitted disease. No sample used for performance of a test under this subsection may disclose the name of the test subject.

SECTION 18. 252.11 (7) of the statutes is amended to read:

252.11 (7) Reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and may not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5), or as provided under s. 938.296 (4) ~~or (5)~~ or 968.38 (4) ~~or (5)~~. If a physician

or advanced practice nurse prescriber has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient, physician, or advanced practice nurse prescriber is called upon to testify to the facts before any court of record.

SECTION 19. 252.12 (1) (b) of the statutes is created to read:

252.12 (1) (b) "AIDS service organizations" means nonprofit corporations or public agencies that provide, or arrange for the provision of, comprehensive services to prevent HIV infection and comprehensive health and social services for persons who have HIV infection, and that are designated as such by the department under sub. (4).

SECTION 20. 252.12 (2) (a) 3. d. of the statutes is amended to read:

252.12 (2) (a) 3. d. Locations for procuring additional information or obtaining HIV testing services.

SECTION 21. 252.12 (2) (a) 5. of the statutes is amended to read:

252.12 (2) (a) 5. The department shall perform HIV tests ~~for the presence of HIV~~ and, if appropriate, tests for the presence of related infections and shall conduct behavioral surveys among population groups determined by the department to be highly at risk of becoming infected with or transmitting HIV and related infections. Information obtained shall be used to develop targeted HIV infection and related infection prevention efforts for these groups and to evaluate the state's prevention strategies.

SECTION 22. 252.12 (2) (a) 7. of the statutes is amended to read:

252.12 (2) (a) 7. The department shall distribute funding in each fiscal year to contract with organizations to provide, at alternate testing sites, anonymous or confidential counseling services for HIV ~~and~~, laboratory HIV testing services ~~for the presence of HIV~~, and, if appropriate, laboratory testing services for the presence of related viruses.

SECTION 23. 252.12 (4) of the statutes is created to read:

252.12 (4) DESIGNATION OF AIDS SERVICE ORGANIZATIONS. The department shall designate AIDS service organizations and specify the geographical area of the state in which they are designated to provide services.

SECTION 24. 252.13 (title) of the statutes is amended to read:

252.13 (title) Blood HIV tests for HIV.

SECTION 25. 252.13 (1m) of the statutes is amended to read:

252.13 (1m) Except as provided under sub. (3), any blood bank, blood center or plasma center in this state that purchases or receives whole blood, blood plasma, a blood product or a blood derivative shall, prior to its distribution or use and in accordance with ~~informed consent~~

under the requirements of conditions under s. 252.15 (2) (b) ~~(2m) (a)~~, subject that blood, plasma, product or derivative to ~~a~~ an HIV test ~~or series of tests that the state epidemiologist finds medically significant and sufficiently reliable under sub. (1r) (a) to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.~~ This subsection does not apply to a blood bank that purchases or receives whole blood, blood plasma, a blood product or a blood derivative from a blood bank, blood center or plasma center in this state if the whole blood, blood plasma, blood product or blood derivative has previously been subjected to ~~a~~ an HIV test ~~or series of tests that the state epidemiologist finds medically significant and sufficiently reliable under sub. (1r) (a) to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.~~

SECTION 26. 252.13 (1r) (intro.) of the statutes is amended to read:

252.13 (1r) (intro.) For the purposes of this section, the state epidemiologist shall make separate findings of medical significance and sufficient reliability for ~~a~~ an HIV test or a series of HIV tests ~~to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV for each of the following purposes:~~

SECTION 27. 252.13 (3) of the statutes is amended to read:

252.13 (3) If a medical emergency, including a threat to the preservation of life of a potential donee, exists under which whole blood, blood plasma, a blood product, or a blood derivative that has been subjected to HIV testing under sub. (1m) is unavailable, the requirement of sub. (1m) shall not apply.

SECTION 28. 252.13 (4) of the statutes is amended to read:

252.13 (4) Subsections (1m) and (2) do not apply to the extent that federal law or regulations require that a blood bank, blood center, or plasma center administer an HIV test to whole blood, blood plasma, a blood product, or a blood derivative.

SECTION 29. 252.13 (5) of the statutes is amended to read:

252.13 (5) Whole blood, blood plasma, a blood product, or a blood derivative described under sub. (2) that is voluntarily donated solely for the purpose of an autologous transfusion may be distributed to or used by the person who has donated the whole blood, blood plasma, blood product, or blood derivative. No person other than the person who has donated the whole blood, blood plasma, blood product, or blood derivative may receive or use the whole blood, blood plasma, blood product, or blood derivative unless it has been subjected to ~~a~~ an HIV test under sub. (1m) and performance of the test has yielded a negative, validated HIV test result ~~for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.~~

SECTION 30. 252.133 (title) of the statutes is created to read:

252.133 (title) HIV testing for anatomical gifts.

SECTION 31. 252.14 (2) (intro.) of the statutes is amended to read:

252.14 (2) (intro.) No health care provider, peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, home health agency, inpatient health care facility, or person who has access to a validated HIV test result may do any of the following with respect to an individual who has acquired immunodeficiency syndrome or has a positive, validated HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV result, solely because the individual has HIV infection or an illness or medical condition that is caused by, arises from, or is related to HIV infection:

SECTION 32. 252.14 (2m) of the statutes is created to read:

252.14 (2m) If a person declines to be subjected to an HIV test, a health care provider may not use the fact that the person declined an HIV test as a basis for denying services or treatment, other than an HIV test, to the person.

SECTION 33. 252.14 (3) of the statutes is amended to read:

252.14 (3) ~~A health care provider, home health agency, or inpatient health care facility that tests an individual for HIV infection shall provide counseling about HIV and referral for appropriate health care and support services as necessary.~~ A health care provider, home health agency, or inpatient health care facility that treats an individual who has an HIV infection or acquired immunodeficiency syndrome shall develop and follow procedures that shall ensure continuity of care for the individual in the event that his or her condition exceeds the scope of licensure or certification of the provider, agency, or facility.

SECTION 34. 252.14 (4) of the statutes is amended to read:

252.14 (4) Any person violating sub. (2) is liable to the patient for actual damages and costs, plus exemplary damages of up to ~~\$5,000~~ \$10,000 for an intentional violation. In determining the amount of exemplary damages, a court shall consider the ability of a health care provider who is an individual to pay exemplary damages.

SECTION 35. 252.15 (title) of the statutes is amended to read:

252.15 (title) Restrictions on use of ~~a~~ an HIV test for HIV.

SECTION 36. 252.15 (1) (ab) of the statutes is repealed.

SECTION 37. 252.15 (1) (ac) of the statutes is created to read:

252.15 (1) (ac) "Authorized representative" means any of the following:

1. A health care agent, as defined under s. 155.01 (4), acting in accordance with a power of attorney for health care that is in effect under s. 155.05 (2).

2. A person named by the court under ch. 48 or 54 or ch. 880, 2003 stats., having the duty and authority of guardianship.

3. A parent or legal custodian of a person who is under 14 years of age.

4. For a person who is unable to communicate due to a medical condition, the person's closest living relative or another individual with whom the person has a meaningful social and emotional relationship.

SECTION 38. 252.15 (1) (am) of the statutes is amended to read:

252.15 (1) (am) "Health care professional" means a physician or physician assistant who is licensed under ch. 448 or a registered nurse or licensed practical nurse who is licensed under ch. 441.

SECTION 39. 252.15 (1) (d) of the statutes is repealed.

SECTION 40. 252.15 (1) (e) of the statutes is repealed.

SECTION 41. 252.15 (1) (em) (intro.) of the statutes is amended to read:

252.15 (1) (em) (intro.) "~~Significantly exposed~~" "Significant exposure" means sustained a contact which that carries a potential for a transmission of HIV, by one or more of the following:

SECTION 42. 252.15 (1) (fm) of the statutes is amended to read:

252.15 (1) (fm) "~~Universal Standard~~ precautions" means measures that a health care provider, an employee of a health care provider or other individual takes in accordance with recommendations of the federal centers for disease control for the health care provider, employee or other individual for prevention of HIV transmission in health-care settings.

SECTION 43. 252.15 (2) (title) of the statutes is repealed.

SECTION 44. 252.15 (2) (a) (intro.) of the statutes is repealed.

SECTION 45. 252.15 (2) (a) 1. of the statutes is renumbered 252.133 (1) and amended to read:

252.133 (1) Except as provided in ~~subd. 1g.~~ sub. (2), a health care provider, as defined in s. 252.15 (1) (ar), who procures, processes, distributes, or uses a human body part or human tissue that is the subject of an anatomical gift under s. 157.06 shall, ~~without obtaining consent to the testing, have an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV performed on the donor of the body part or tissue~~ in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall use as a ~~an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds medi-~~

~~cally significant and sufficiently reliable to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV that yields a validated HIV test result.~~ If the validated HIV test result of the donor ~~from the test or series of tests performed~~ is positive, the human body part or human tissue donated for use or proposed for donation may not be used.

SECTION 46. 252.15 (2) (a) 1g. of the statutes is renumbered 252.133 (2) and amended to read:

252.133 (2) If ~~a medical emergency~~, as determined by the attending physician of a potential donee of a human body part or human tissue and including a threat ~~to the preservation of life of the potential donee, a medical emergency~~ exists under which a human body part or human tissue that has been subjected to testing under ~~subd. 1.~~ sub. (1) is unavailable, including a threat to the preservation of the life of the potential donee, the requirement of ~~subd. 1.~~ sub. (1) does not apply.

SECTION 47. 252.15 (2) (a) 2. of the statutes is renumbered 252.15 (2m) (b) 1. and amended to read:

252.15 (2m) (b) 1. ~~The HIV testing of any body fluid or tissue that is performed by the department, a laboratory certified under 42 USC 263a, or a health care provider, blood bank, blood center, or plasma center may, for the purpose of research and without first obtaining written consent to the testing, subject any body fluids or tissues to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.~~

SECTION 48. 252.15 (2) (a) 3. of the statutes is renumbered 252.15 (2m) (b) 2. and amended to read:

252.15 (2m) (b) 2. ~~The medical director HIV testing of a resident or patient~~ of a center for the developmentally disabled, as defined in s. 51.01 (3), or a mental health institute, as defined in s. 51.01 (12), ~~may, without obtaining consent to the testing, subject a resident or patient of the center or institute to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV if he or she if the medical director of the center or institute determines that the conduct of the resident or patient poses a significant risk of transmitting HIV to another resident or patient of the center or institute and if the medical director provides the resident or patient, or the resident's or patient's guardian, an explanation of the HIV test result.~~

SECTION 49. 252.15 (2) (a) 4. of the statutes is repealed.

SECTION 50. 252.15 (2) (a) 6. of the statutes is renumbered 252.15 (2m) (b) 3. and amended to read:

252.15 (2m) (b) 3. ~~A HIV testing by a health care professional acting under an order of the court under subd. 7.~~ sub. (5j) or s. 938.296 (4) or (5) or 968.38 (4) or (5) ~~may, without first obtaining consent to the testing, subject an individual to a test or a series of tests to detect~~

the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. No sample used for laboratory test purposes under this subdivision may disclose the name of the HIV test subject, and, notwithstanding sub. (4)(e), the HIV test results may not be made part of the individual's permanent medical record.

SECTION 51. 252.15 (2) (a) 7. a. of the statutes is renumbered 252.15 (5g) (a) 1. and amended to read:

252.15 (5g) (a) 1. If all of the conditions under subd. 7. ai. to e. are met, an ~~The person is an~~ emergency medical technician; first responder; fire fighter; peace officer; correctional officer; person who is employed at a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for children and youth, as defined in s. 938.02 (15g); state patrol officer; jailer, keeper of a jail, or person designated with custodial authority by the jailer or keeper; and the contact occurred during the course of the person providing care or services to an the individual;

2. The person is a peace officer, correctional officer, state patrol officer, jailer, or keeper of a jail, or person designated with custodial authority by the jailer or keeper; and the contact occurred while the person was searching or arresting an the individual or while controlling or transferring an the individual in custody;

3. The person is a health care provider or an employee of a health care provider; and the contact occurred during the course of the person providing care or treatment to an the individual or handling or processing specimens of body fluids or tissues of an the individual;

4. The person is a staff member of a state crime laboratory; and the contact occurred during the course of the person handling or processing specimens of body fluids or tissues of an the individual;

5. The person is a social worker; or an employee of a school district, cooperative educational service agency, charter school, private school, the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired; and the contact occurred while the person was performing employment duties involving an the individual; who is significantly exposed to the individual may subject the individual's blood to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and may receive disclosure of the results.

SECTION 52. 252.15 (2) (a) 7. ai. of the statutes is renumbered 252.15 (5g) (b) and amended to read:

252.15 (5g) (b) The affected person uses universal If the contact occurs as provided under par. (a) 1. to 5., the entity that employs or contracts with the person to provide the services described under par. (a) 1. to 5. requires, as a general policy, that standard precautions, if any, against significant exposure, and was using universal precautions at the time that he or she was significantly exposed be taken during provision of the services, except

in those emergency circumstances in which the time necessary for use of the universal standard precautions would endanger the life of the individual.

SECTION 53. 252.15 (2) (a) 7. ak. of the statutes is renumbered 252.15 (5g) (c) and amended to read:

252.15 (5g) (c) A physician, physician assistant, or advanced practice nurse prescriber, based on information provided to the physician, physician assistant, or advanced practice nurse prescriber, determines and certifies in writing that the affected person has been significantly exposed had contact that constitutes a significant exposure. The certification shall accompany the request for HIV testing and disclosure. If the affected person who is significantly exposed is a physician, physician assistant, or advanced practice nurse prescriber, he or she may not make this determination or certification. The information that is provided to a physician, physician assistant, or advanced practice nurse prescriber to document the occurrence of the contact that constitutes a significant exposure and the physician's, physician assistant's, or advanced practice nurse prescriber's certification that an affected the person has been significantly exposed, under this subd. 7. ak, had contact that constitutes a significant exposure, shall be provided on a report form that is developed by the department of commerce under s. 101.02 (19) (a) or on a report form that the department of commerce determines, under s. 101.02 (19) (b), is substantially equivalent to the report form that is developed under s. 101.02 (19) (a).

SECTION 54. 252.15 (2) (a) 7. am. of the statutes is renumbered 252.15 (5g) (d) and amended to read:

252.15 (5g) (d) The affected person submits to a an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, as soon as feasible or within a time period established by the department after consulting guidelines of the centers for disease control of the federal public health service, whichever is earlier.

SECTION 55. 252.15 (2) (a) 7. ap. of the statutes is renumbered 252.15 (5g) (e) and amended to read:

252.15 (5g) (e) Except as provided in subd. 7. av. to e. sub. (5j), the HIV test is performed on blood of the individual that is drawn for a purpose other than HIV testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

SECTION 56. 252.15 (2) (a) 7. ar. of the statutes is renumbered 252.15 (5g) (f) and amended to read:

252.15 (5g) (f) The individual, if capable of consenting, has been given an opportunity to be tested with his or her consent subjected to an HIV test in accordance with the conditions under sub. (2m) (a) and has not consented declined.

SECTION 57. 252.15 (2) (a) 7. at. of the statutes is renumbered 252.15 (5g) (g) (intro.) and amended to read:

252.15 (5g) (g) (intro.) The individual has been informed that of all of the following:

1. That an HIV test may be performed on his or her blood may be tested for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV; that.

2. That the HIV test results may be disclosed to no one, including that individual, without his or her consent, except to the person who is certified to have been significantly exposed; that, and the person's physician, physician assistant, or nurse.

4. That, if the person knows the identity of the individual, he or she the person may not disclose the identity to any other person except for the purpose of having the HIV test or series of tests performed; and that.

5. That a record may be kept of the HIV test results only if the record does not reveal the individual's identity.

SECTION 58. 252.15 (2) (a) 7. av. of the statutes is renumbered 252.15 (5j) (a) and amended to read:

252.15 (5j) (a) If blood that is specified in subd. 7. ap. is unavailable, the person who is certified under subd. 7. ak. to have been significantly exposed A person who may cause an individual to be subjected to HIV testing under sub. (5g) may request the district attorney to apply to the circuit court for his or her county to order the individual to submit to a an HIV test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and to disclose the results to that person if no blood of the individual that was drawn for a purpose other than HIV testing is available for HIV testing. The A person who is certified under subd. 7. ak. to have been significantly exposed making a request to a district attorney under this paragraph shall accompany the request with provide the district attorney the certification under subd. 7. ak sub. (5g) (c).

SECTION 59. 252.15 (2) (a) 7. b. of the statutes is renumbered 252.15 (5j) (b) and amended to read:

252.15 (5j) (b) Upon receipt of a request and certification under the requirements of this subdivision par. (a), a district attorney shall, as soon as possible so as to enable the court to provide timely notice, apply to the circuit court for his or her county to order the individual to submit to a an HIV test or a series of tests as specified in subd. 7. a., administered by a health care professional, and to disclose the results of the test or tests as specified in subd. 7. e.

SECTION 60. 252.15 (2) (a) 7. c. of the statutes is renumbered 252.15 (5j) (c) and amended to read:

252.15 (5j) (c) The court shall set a time for a hearing on the matter under subd. 7. a. this subsection within 20 days after receipt of a request under subd. 7. b par. (b). The court shall give the district attorney and the individual from whom a an HIV test is sought notice of the hearing at least 72 hours prior to the hearing. The individual may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the person who requested a court order for testing has had contact with body fluid

of the individual has significantly exposed the affected person that constitutes a significant exposure, the court shall, except as provided in subd. 7. d. par. (d), order the individual to submit to a an HIV test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. The court shall require the health care professional who performs the test or series of tests to refrain from disclosing the test results to the individual and to disclose the test results to the affected person and his or her health care professional. No sample used for laboratory test purposes under this subd. 7. e. paragraph may disclose the name of the HIV test subject.

SECTION 61. 252.15 (2) (a) 7. d. of the statutes is renumbered 252.15 (5j) (d) and amended to read:

252.15 (5j) (d) The court is not required to order the an individual to submit to a an HIV test under subd. 7. e. par. (c) if the court finds substantial reason relating to the life or health of the individual not to do so and states the reason on the record.

SECTION 62. 252.15 (2) (a) 7m. of the statutes is renumbered 252.15 (3m) (f) and amended to read:

252.15 (3m) (f) The test results of an HIV test of an individual that is performed under subd. 7. sub. (5g) or (5j) may be disclosed only to the individual, if he or she so consents, to anyone the following:

2. Anyone authorized by the individual and to the affected subject of the test.

3. The person who was certified to have been significantly exposed. A record may be retained of the test results only if the record does not reveal the individual's identity. If the affected person knows the identity of the individual whose blood was tested, he or she may not disclose the identity to any other person except for the purpose of having the test or series of tests performed had contact that constitutes a significant exposure and to that person's physician, physician assistant, or nurse.

SECTION 63. 252.15 (2) (am) of the statutes is repealed.

SECTION 64. 252.15 (2) (b) of the statutes is repealed.

SECTION 65. 252.15 (2) (bm) of the statutes is repealed.

SECTION 66. 252.15 (2m) (title) of the statutes is created to read:

252.15 (2m) (title) CONSENT FOR HIV TESTING.

SECTION 67. 252.15 (2m) (a) of the statutes is created to read:

252.15 (2m) (a) Except as provided in par. (b), and subject to par. (c), a health care provider, blood bank, blood center, or plasma center may not subject a person to an HIV test unless all of the following conditions are satisfied:

1. The health care provider, blood bank, blood center, or plasma center notifies the person or the person's authorized representative that the person will be subjected to an HIV test unless the person or the person's authorized representative declines the test.

2. The health care provider, blood bank, blood center, or plasma center offers the person or the person's authorized representative a brief oral or written explanation or description of HIV infection; HIV test results; requirements under subs. (7) (b) and (7m) for reporting HIV test results; treatment options for a person who has a positive HIV test result; and services provided by AIDS service organizations, as defined in s. 252.12 (1) (b), and other community-based organizations for persons who have a positive HIV test result.

3. If a health care provider offers to perform an HIV test, the health care provider notifies the person or the person's authorized representative that the person or the person's authorized representative may decline the HIV test and that, if the person or the person's authorized representative declines the HIV test, the health care provider may not use the fact that the person declined an HIV test as a basis for denying services or treatment, other than an HIV test, to the person.

4. The health care provider, blood bank, blood center, or plasma center provides the person or the person's authorized representative an opportunity to ask questions and to decline the HIV test.

5. After complying with applicable conditions under subs. 1. to 4., the health care provider, blood bank, blood center, or plasma center verifies that the person or the person's authorized representative understands that an HIV test will be performed on the person and that the decision of the person or the person's authorized representative regarding whether to have an HIV test performed is not coerced or involuntary.

SECTION 68. 252.15 (2m) (b) (intro.) of the statutes is created to read:

252.15 (2m) (b) Paragraph (a) does not apply to any of the following:

SECTION 69. 252.15 (2m) (b) 4. of the statutes is created to read:

252.15 (2m) (b) 4. HIV testing in cases of significant exposure, as provided under sub. (5g) or (5j).

SECTION 70. 252.15 (2m) (b) 5. of the statutes is created to read:

252.15 (2m) (b) 5. HIV testing of a donor of a human body part or human tissue that is required under s. 252.133.

SECTION 71. 252.15 (2m) (c) of the statutes is created to read:

252.15 (2m) (c) If the subject of an HIV test is a minor who is 14 years of age or older, a health care provider, blood bank, blood center, or plasma center shall provide the notifications and offer the information under par. (a) 1. to 4. to the minor or his or her authorized representative, and only the minor or his or authorized representative may consent to or decline an HIV test under par. (a).

SECTION 72. 252.15 (2r) of the statutes is created to read:

252.15 (2r) PROHIBITION AGAINST CONDITIONING HIV TESTING ON DISCLOSURE. A health care provider may not require a person to authorize disclosure of HIV test results as a condition of administering an HIV test to the person.

SECTION 73. 252.15 (3) of the statutes is repealed.

SECTION 74. 252.15 (3m) (b) 1. to 7. of the statutes are created to read:

252.15 (3m) (b) 1. The name of the subject of the HIV test.

2. Specification of the information that may be disclosed.

3. The name of the person authorized to make the disclosure.

4. The name of the person to whom the disclosure is authorized.

5. The signature of the subject of the HIV test or the signature of the subject's authorized representative.

6. The date the authorization is signed as provided under subd. 5.

7. The time period during which the authorization for disclosure is effective.

SECTION 75. 252.15 (3m) (c) of the statutes is created to read:

252.15 (3m) (c) If the subject of an HIV test is a minor who is 14 years of age or older, only the minor or his or her authorized representative may exercise the test subject's authority to disclose HIV test results under par. (a) or to authorize disclosure of HIV test results under par. (b).

SECTION 76. 252.15 (3m) (d) (intro.) of the statutes is created to read:

252.15 (3m) (d) (intro.) Except as provided under par. (f), a person who is neither the subject of an HIV test nor the subject's authorized representative may without written authorization from the test subject or authorized representative under par. (b) disclose the subject's HIV test results to the following persons under the following circumstances:

SECTION 77. 252.15 (3m) (e) of the statutes is created to read:

252.15 (3m) (e) The health care professional who performs an HIV test under sub. (5g) or (5j) on behalf of a person who has contact with body fluids of the test subject that constitutes as significant exposure shall disclose the HIV test results to the person and the person's physician, physician assistant, or nurse.

SECTION 78. 252.15 (3m) (f) 1. of the statutes is created to read:

252.15 (3m) (f) 1. The subject of the test.

SECTION 79. 252.15 (3m) (g) of the statutes is created to read:

252.15 (3m) (g) A person who was certified to have had contact with body fluid of an individual that constitutes a significant exposure and has the individual's blood subjected to an HIV test under sub. (5g) or (5j) may

not disclose the identity of the test subject to any other person except for the purpose of having the HIV test performed.

SECTION 80. 252.15 (4) (intro.) of the statutes is amended to read:

252.15 (4) **RECORD MAINTENANCE.** (intro.) A health care provider, blood bank, blood center, or plasma center that obtains from a person a specimen of body fluids or tissues from a person for the purpose of testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to an HIV test, or offers to subject a person to an HIV test, shall maintain in the person's health care record all of the following:

SECTION 81. 252.15 (4) (a) of the statutes is repealed.

SECTION 82. 252.15 (4) (b) of the statutes is repealed and recreated to read:

252.15 (4) (b) A record of whether the person or his or her authorized representative consented to or declined the HIV test under sub. (2m) (a).

SECTION 83. 252.15 (4) (bm) of the statutes is created to read:

252.15 (4) (bm) A record of any authorization for disclosure of HIV test results that the person or his or her authorized representative has made as provided under sub. (3m) (b).

SECTION 84. 252.15 (4) (c) of the statutes is amended to read:

252.15 (4) (c) Maintain a A record of the test results obtained. ~~A record that is made under the circumstances described in sub. (2) (a) 7m. may not reveal the identity of the test subject of an HIV test administered to the person, except that results of an HIV test administered under sub. (5g) or (5j) or s. 938.296 (4) or (5) or 968.38 (4) or (5) that include the identity of the test subject may not be maintained without the consent of the test subject.~~

SECTION 85. 252.15 (5) (title) of the statutes is renumbered 252.15 (3m) (title) and amended to read:

252.15 (3m) (title) **CONFIDENTIALITY AND DISCLOSURE OF HIV TEST RESULTS.**

SECTION 86. 252.15 (5) (a) (intro.) of the statutes is renumbered 252.15 (3m) (a) and amended to read:

252.15 (3m) (a) ~~An individual who is the The~~ subject of a an HIV test for the presence of HIV, antigen or non-antigenic products of HIV or an antibody to HIV or the individual's health care agent, if the individual has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), subject's authorized representative may disclose the results of the individual's subject's test to anyone. ~~A~~

(b) Except as provided under par. (d) or (e), a person who is neither the individual subject of the HIV test nor the individual's health care agent subject's authorized representative may not, unless he or she is specifically authorized by the individual to do so, disclose the individual's subject's HIV test results except to the following

persons or under unless the subject of the HIV test or his or her authorized representative has signed authorization for the disclosure that contains all of the following circumstances:

SECTION 87. 252.15 (5) (a) 1. of the statutes is renumbered 252.15 (3m) (d) 1. and amended to read:

252.15 (3m) (d) 1. To the subject of the HIV test and, if the test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent subject's authorized representative.

SECTION 88. 252.15 (5) (a) 2. of the statutes is renumbered 252.15 (3m) (d) 2. and amended to read:

252.15 (3m) (d) 2. To a health care provider who provides care to the test subject of the HIV test, including those instances in which a health care provider provides emergency care to the subject.

SECTION 89. 252.15 (5) (a) 3. of the statutes is renumbered 252.15 (3m) (d) 3.

SECTION 90. 252.15 (5) (a) 4. of the statutes is renumbered 252.15 (3m) (d) 4., and 252.15 (3m) (d) 4. (intro.), a. and b., as renumbered, are amended to read:

252.15 (3m) (d) 4. (intro.) To a blood bank, blood center, or plasma center that ~~subjects a person to a sub-~~ jected the test subject to an HIV test under sub. (2) (a), for any of the following purposes:

a. Determining the medical acceptability of blood or plasma secured from the test subject of the HIV test.

b. Notifying the test subject of the HIV test of the test results.

SECTION 91. 252.15 (5) (a) 5. of the statutes is renumbered 252.15 (3m) (d) 5.

SECTION 92. 252.15 (5) (a) 6. of the statutes is renumbered 252.15 (3m) (d) 6. and amended to read:

252.15 (3m) (d) 6. To the state epidemiologist or his or her designee, or to a local health officer or his or her designees, for the purpose of providing epidemiologic surveillance or investigation or control of communicable disease.

SECTION 93. 252.15 (5) (a) 7. of the statutes is renumbered 252.15 (3m) (d) 7. and amended to read:

252.15 (3m) (d) 7. To a funeral director, as defined under s. 445.01 (5) (a) 1. or 2. or (c) or to other persons who prepare the body of ~~a decedent~~ the subject of the HIV test for burial or other disposition or to a person who performs an autopsy, or assists in performing an autopsy, on the subject of the HIV test.

SECTION 94. 252.15 (5) (a) 8. and 9. of the statutes are renumbered 252.15 (3m) (d) 8. and 9.

SECTION 95. 252.15 (5) (a) 10. of the statutes is renumbered 252.15 (3m) (d) 10., and 252.15 (3m) (d) 10. (intro.), a. and c., as renumbered, are amended to read:

252.15 (3m) (d) 10. (intro.) To Except as provided under par. (g), to a person who conducts research, for the purpose of research, if the researcher:

a. Is affiliated with a health care provider under subd. 3 2.

c. Provides written assurance to the person disclosing the HIV test results that use of the information requested is only for the purpose under which it is provided to the researcher, the information will not be released to a person not connected with the study, and the final research product will not reveal information that may identify the test subject unless the researcher has first received informed consent for disclosure from the test subject.

SECTION 96. 252.15 (5) (a) 11. of the statutes is repealed.

SECTION 97. 252.15 (5) (a) 12. of the statutes is renumbered 252.15 (3m) (d) 11. and amended to read:

252.15 (3m) (d) 11. To a coroner, medical examiner, or an appointed assistant to a coroner or medical examiner, if one or more of the following conditions exist applies:

a. The coroner, medical examiner, or an appointed assistant is investigating the cause of death of the subject of the HIV test and possible HIV-infected status is relevant to the cause of death of a person whose death is under direct investigation by the coroner, medical examiner or appointed assistant.

b. The coroner, medical examiner, or appointed assistant is significantly exposed to a person whose death is under direct investigation by the coroner, medical examiner, or appointed assistant investigating the cause of death of the subject of the HIV test and has contact with the body fluid of the subject of the HIV test that constitutes a significant exposure, if a physician, physician assistant, or advanced practice nurse prescriber, based on information provided to the physician, physician assistant, or advanced practice nurse prescriber, determines and certifies in writing that the coroner, medical examiner, or appointed assistant has been significantly exposed had a contact that constitutes a significant exposure and if the certification accompanies the request for disclosure.

SECTION 98. 252.15 (5) (a) 13. of the statutes is renumbered 252.15 (3m) (d) 12. and amended to read:

252.15 (3m) (d) 12. To a sheriff, jailer, or keeper of a prison, jail, or house of correction or a person designated with custodial authority by the sheriff, jailer, or keeper, for whom disclosure is necessitated in order to permit the assigning of a private cell to a prisoner who has a positive HIV test result.

SECTION 99. 252.15 (5) (a) 14. of the statutes is renumbered 252.15 (3m) (d) 13. and amended to read:

252.15 (3m) (d) 13. If the test results of a test administered to an individual are subject of the HIV test has a positive HIV test result and the individual is deceased, by the individual's subject's attending physician, physician assistant, or advanced practice nurse prescriber, to persons, if known to the physician, physician assistant, or advanced practice nurse prescriber, with

whom the individual has subject had sexual contact or has shared intravenous drug use paraphernalia.

SECTION 100. 252.15 (5) (a) 15. of the statutes is repealed.

SECTION 101. 252.15 (5) (a) 17. of the statutes is renumbered 252.15 (3m) (d) 14. and amended to read:

252.15 (3m) (d) 14. To ~~an alleged victim or victim, to a health care professional, upon request a person under s. 938.296 (4) (a) to (e) as specified in s. 938.296 (4) (e) or; to a person under s. 938.296 (5) (a) to (e) as specified in s. 938.296 (5) (e) or; to a person under s. 968.38 (4) (a) to (c) or (5) (c), who provides care to the alleged victim or victim and, if the alleged victim or victim is a minor, to the parent or guardian of the alleged victim or victim, as specified in s. 968.38 (4); or to a person under s. 938.296 (4) or 968.38 (5) or (a) to (c) as specified in s. 968.38 (4) or (5).~~

SECTION 102. 252.15 (5) (a) 18. of the statutes is repealed.

SECTION 103. 252.15 (5) (a) 19. of the statutes is renumbered 252.15 (3m) (d) 15. and amended to read:

252.15 (3m) (d) 15. If the subject of the HIV test was administered to is a child who has been placed in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility, as defined in s. 938.02 (10p), including a placement under s. 48.205, 48.21, 938.205, or 938.21, or for whom placement in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c), or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4) (e), 938.355 (2e), or 938.38 regarding the child, or to an agency that placed the child or arranged for the placement of the child in any of those placements and, by any of those agencies, to any other of those agencies and, by the agency that placed the child or arranged for the placement of the child in any of those placements, to the child's foster parent or treatment foster parent or the operator of the group home, residential care center for children and youth, or juvenile correctional facility in which the child is placed, as provided in s. 48.371 or 938.371.

SECTION 104. 252.15 (5) (a) 20. of the statutes is renumbered 252.15 (3m) (d) 16. and amended to read:

252.15 (3m) (d) 16. ~~To a~~ If the subject of the HIV test is a prisoner, to the prisoner's health care provider, the medical staff of a prison or jail in which a prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a person

designated by a jailer to maintain prisoner medical records, if the disclosure is made with respect to the prisoner's patient health care records under s. 302.388, to the medical staff of a jail to whom the HIV results are disclosed under s. 302.388 (2) (c) or (d), to the medical staff of a jail to which a prisoner is being transferred, if the results are provided to the medical staff by the department of corrections as part of the prisoner's medical file, to a health care provider to whom the results are disclosed under s. 302.388 (2) (c) or (f) or the department of corrections if the disclosure is made with respect to a prisoner's patient health care records under s. 302.388 (4).

SECTION 105. 252.15 (5) (b) of the statutes is renumbered 252.15 (3m) (h) and amended to read:

252.15 (3m) (h) A private pay patient may deny access to prohibit disclosure of his or her HIV test results granted under par. (a) (d) 10. if he or she annually submits to the maintainer of his or her HIV test results under sub. (4) (c) a signed, written request that denial be made disclosure be prohibited.

SECTION 106. 252.15 (5g) (intro.) and (a) of the statutes are created to read:

252.15 (5g) SIGNIFICANT EXPOSURE. A person who has contact with body fluid of an individual that constitutes a significant exposure may cause the individual to be subjected to HIV testing and receive the results of the HIV test under sub. (3m) (e) if all of the following apply:

(a) The contact occurred under one of the following circumstances:

SECTION 107. 252.15 (5g) (a) 6. of the statutes is created to read:

252.15 (5g) (a) 6. While the person rendered emergency care at the scene of an emergency or accident, if the person is immune from civil liability for rendering the care under s. 895.48 or 895.4802 (2).

SECTION 108. 252.15 (5g) (g) 3. of the statutes is created to read:

252.15 (5g) (g) 3. That, except as provided in subd. 2., the HIV test may not be disclosed to any person.

SECTION 109. 252.15 (5j) (title) of the statutes is created to read:

252.15 (5j) (title) COURT ORDER FOR HIV TESTING.

SECTION 110. 252.15 (5m) (title) of the statutes is amended to read:

252.15 (5m) (title) AUTOPSIES; HIV TESTING OF CERTAIN CORPSES.

SECTION 111. 252.15 (5m) (intro.) of the statutes is renumbered 252.15 (5m) (d) (intro.) and amended to read:

252.15 (5m) (d) (intro.) Notwithstanding s. 157.05, a corpse may be subjected to -a- an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and the test results disclosed to the a person who has been significantly exposed under any of contact that constitutes a significant exposure with body

fluid of the corpse or an individual who subsequently dies, if all of the following conditions apply:

SECTION 112. 252.15 (5m) (a) of the statutes is renumbered 252.15 (5m) (d) 1. a. and amended to read:

252.15 (5m) (d) 1. a. If ~~a~~ While the person, including a person exempted from civil liability under the conditions specified under s. 895.48; or 895.4802, ~~or~~ 895.4803, who (2) renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the an emergency or accident victim and the emergency or accident victim subsequently dies prior to testing for the presence of performance of an HIV, antigen or nonantigenic products of HIV, or an antibody to HIV; if a physician or advanced practice nurse prescriber, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the emergency caregiver has been significantly exposed; and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the coroner, medical examiner, or physician who certifies the victim's cause of death under s. 69.18 (2) (b), (c) or (d) test on the victim.

SECTION 113. 252.15 (5m) (b) of the statutes is renumbered 252.15 (5m) (d) 1. b. and amended to read:

252.15 (5m) (d) 1. b. If The person is a funeral director, coroner, medical examiner, or appointed assistant to a coroner or medical examiner who and the contact occurs while the person prepares the corpse of a decedent for burial or other disposition or ~~a while the person who~~ performs an autopsy or assists in performing an autopsy is significantly exposed to on the corpse; if a physician or advanced practice nurse prescriber, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the funeral director, coroner, medical examiner, or appointed assistant has been significantly exposed; and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the attending physician or advanced practice nurse prescriber of the funeral director, coroner, medical examiner, or appointed assistant who is so exposed.

SECTION 114. 252.15 (5m) (c) of the statutes is renumbered 252.15 (5m) (d) 1. c. and amended to read:

252.15 (5m) (d) 1. c. If The person is a health care provider or an agent or employee of a health care provider is significantly exposed to and the person has contact with body fluid of the corpse, or to of a patient who dies subsequent to the exposure contact and prior to testing for the presence performance of an HIV, antigen or nonantigenic products of HIV, or an antibody to HIV; if a physician or advanced practice nurse prescriber who is not the health care provider, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the health care

provider, agent or employee has been significantly exposed; and if the certification accompanies the request for testing and disclosure. ~~Testing of a corpse under this paragraph shall be ordered by the physician or advanced practice nurse prescriber who certifies that the significant exposure has occurred~~ test on the patient.

SECTION 115. 252.15 (5m) (d) 1. (intro.) of the statutes is created to read:

252.15 (5m) (d) 1. The contact occurs under any of the following circumstances:

SECTION 116. 252.15 (5m) (d) 2. and 3. of the statutes are created to read:

252.15 (5m) (d) 2. A physician, physician assistant, or advanced practice nurse prescriber, based on information provided to the physician, physician assistant, or advanced practice nurse prescriber, determines and certifies in writing that the contact under subd. 1. constitutes a significant exposure. A health care provider who as a contact under par. (d) 1. c. may not make the certification under this subdivision for himself or herself.

3. The certification under subd. 2. accompanies the request for performance of an HIV test and disclosure.

SECTION 117. 252.15 (5m) (e) of the statutes is created to read:

252.15 (5m) (e) If the conditions under par. (d) are satisfied, the following person shall order an HIV test of the corpse:

1. If the contact occurs as provided under par. (d) 1. a., the coroner, medical examiner, or physician who certifies the victim's cause of death under s. 69.18 (2) (b), (c), or (d).

2. If the contact occurs as provided under par. (d) 1. b., the attending physician, physician assistant, or advanced practice nurse prescriber of the funeral director, coroner, medical examiner, or appointed assistant.

3. If the contact occurs as provided under (d) 1. c., the physician, physician assistant, or advanced practice nurse prescriber who makes the certification under par. (d) 2.

SECTION 118. 252.15 (6) of the statutes is amended to read:

252.15 (6) EXPANDED DISCLOSURE OF HIV TEST RESULTS PROHIBITED. No person to whom the results of ~~a an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV~~ have been disclosed under sub. (5)-(a) (3m) (a), (b), (d), or (e) or (5m) may disclose the test results except as authorized under sub. (5)-(a) (3m) (a), (b), (d), or (e) or (5m).

SECTION 119. 252.15 (7) (title) of the statutes is amended to read:

252.15 (7) (title) REPORTING OF POSITIVE HIV TEST RESULTS.

SECTION 120. 252.15 (7) (a) of the statutes is amended to read:

252.15 (7) (a) Notwithstanding ss. 227.01 (13) and 227.10 (1), for the purposes of this subsection, the state

epidemiologist shall determine, based on the preponderance of available scientific evidence, the procedures necessary in this state to obtain a validated HIV test result and the secretary shall so declare under s. 250.04 (1) or (2) (a). The state epidemiologist shall revise this determination if, in his or her opinion, changed available scientific evidence warrants a revision, and the secretary shall declare the revision under s. 250.04 (1) or (2) (a).

SECTION 121. 252.15 (7) (b) (intro.) of the statutes is amended to read:

252.15 (7) (b) (intro.) If a positive, validated HIV test result is obtained from ~~a an HIV test subject~~, the health care provider, blood bank, blood center, or plasma center that maintains a record of the HIV test results result under sub. (4) (c) shall report to the state epidemiologist the following information:

SECTION 122. 252.15 (7) (b) 4. of the statutes is amended to read:

252.15 (7) (b) 4. The date on which the HIV test was performed.

SECTION 123. 252.15 (7) (b) 5. of the statutes is amended to read:

252.15 (7) (b) 5. The HIV test result.

SECTION 124. 252.15 (7) (b) 5m. of the statutes is created to read:

252.15 (7) (b) 5m. The mode of transmission of HIV to the test subject.

SECTION 125. 252.15 (7) (c) 1. of the statutes is amended to read:

252.15 (7) (c) 1. Information with respect to the sexual orientation of the HIV test subject.

SECTION 126. 252.15 (7) (c) 2. of the statutes is amended to read:

252.15 (7) (c) 2. The identity of persons with whom the HIV test subject may have had sexual contact.

SECTION 127. 252.15 (7m) of the statutes is amended to read:

252.15 (7m) REPORTING OF PERSONS SIGNIFICANTLY EXPOSED. If a positive, validated HIV test result is obtained from a test subject, the test subject's physician, physician assistant, or advanced practice nurse prescriber who maintains a record of the HIV test result under sub. (4) (c) may report to the state epidemiologist the name of any person known to the physician, physician assistant, or advanced practice nurse prescriber to have been significantly exposed to had contact with body fluid of the test subject that constitutes a significant exposure, only after the physician, physician assistant, or advanced practice nurse prescriber has done all of the following:

(a) Counseled the HIV test subject to inform any person who has been significantly exposed to had contact with body fluid of the test subject that constitutes a significant exposure.

(b) Notified the HIV test subject that the name of any person known to the physician, physician assistant, or advanced practice nurse prescriber to have been signifi-

cantly exposed to had contact with body fluid of the test subject that constitutes a significant exposure will be reported to the state epidemiologist.

SECTION 128. 252.15 (7r) of the statutes is created to read:

252.15 (7r) EXPLANATION OF HIV FOR TEST SUBJECTS. The department shall provide to health care providers, blood banks, blood centers, and plasma centers a brief explanation or description of all of the following that a health care provider, blood bank, blood center, or plasma center may provide prospective HIV test subjects under sub. (2m) (a) 2.:

- (a) HIV infection.
- (b) HIV test results.
- (c) Requirements under subs. (7) (b) and (7m) for reporting HIV test results.
- (d) Treatment options for a person who has a positive HIV test result.
- (e) Services provided by AIDS service organizations, as defined in s. 252.12 (1) (b), and other community-based organizations for persons who have a positive HIV test result.

SECTION 129. 252.15 (8) of the statutes is amended to read:

252.15 (8) CIVIL LIABILITY. (a) Any person violating sub. (2), ~~(5)-(a) (2m), (3m) (b), (d), or (f), (5m), (6) or (7) (c)~~ is liable to the subject of the test for actual damages, costs and reasonable actual attorney fees, plus exemplary damages of up to \$1,000 \$2,000 for a negligent violation and up to \$25,000 \$50,000 for an intentional violation.

(b) The plaintiff in an action under par. (a) has the burden of proving by a preponderance of the evidence that a violation occurred under sub. ~~(2), (5)-(a) (2m), (3m) (b), (d), or (f), (5m), (6) or (7) (c)~~. A conviction under sub. ~~(2), (5)-(a) (2m), (3m) (b), (d), or (f), (5m), (6) or (7) (c)~~ is not a condition precedent to bringing an action under par. (a).

SECTION 130. 252.15 (9) of the statutes is amended to read:

252.15 (9) PENALTIES. Whoever intentionally discloses the results of ~~a blood~~ an HIV test in violation of sub. ~~(2) (a) 7m., (5) (a) (3m) (b) or (f) or (5m)~~ and thereby causes bodily harm or psychological harm to the subject of the HIV test may be fined not more than \$25,000 \$50,000 or imprisoned not more than 9 months or both. Whoever negligently discloses the results of ~~a blood~~ an HIV test in violation of sub. ~~(2) (a) 7m., (5) (a) (3m) (b) or (f) or (5m)~~ is subject to a forfeiture of not more than \$1,000 \$2,000 for each violation. Whoever intentionally discloses the results of ~~a blood~~ an HIV test in violation of sub. ~~(2) (a) 7m., (5) (a) sub. (3m) (b) or (f) or (5m)~~, knowing that the information is confidential, and discloses the information for pecuniary gain may be fined not more than \$100,000 \$200,000 or imprisoned not more than 3 years and 6 months, or both.

SECTION 131. 256.15 (12) (a) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

256.15 (12) (a) All records made by an ambulance service provider, an emergency medical technician or a first responder in administering emergency care procedures to and handling and transporting sick, disabled or injured individuals shall be maintained as confidential patient health care records subject to s. 252.15 ~~(5)-(a) (intro-)~~ (3m), (6), (8) and (9), if applicable. Nothing in this paragraph or ss. 146.81 to 146.84 permits disclosure to an ambulance service provider, an emergency medical technician or a first responder under s. 252.15 ~~(5)-(a) (3m)~~, except under s. 252.15 ~~(5)-(a) 11~~ (3m) (e).

SECTION 132. 440.20 (4) of the statutes is amended to read:

440.20 (4) In addition to any grounds for discipline specified in chs. 440 to 480, the department or appropriate examining board, affiliated credentialing board or board in the department may reprimand the holder of a credential or deny, limit, suspend or revoke the credential of any person who intentionally violates s. 252.14 (2) or intentionally discloses the results of a blood test in violation of s. 252.15 ~~(5)-(a) (3m) (b) or (f) or (5m)~~.

SECTION 133. 631.90 (1) of the statutes is amended to read:

631.90 (1) In this section, “HIV test” means ~~any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome~~ has the meaning given in s. 252.01 (2m).

SECTION 134. 631.90 (2) (a) of the statutes is amended to read:

631.90 (2) (a) Require or request directly or indirectly any individual to reveal whether the individual has obtained ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or what the results of this test, if obtained by the individual, were.

SECTION 135. 631.90 (2) (b) of the statutes is amended to read:

631.90 (2) (b) Condition the provision of insurance coverage on whether an individual has obtained ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or what the results of this test, if obtained by the individual, were.

SECTION 136. 631.90 (2) (c) of the statutes is amended to read:

631.90 (2) (c) Consider in the determination of rates or any other aspect of insurance coverage provided to an individual whether an individual has obtained ~~a~~ an HIV test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or what the results of this test, if obtained by the individual, were.

SECTION 137. 631.90 (3) (a) of the statutes is amended to read:

631.90 (3) (a) Subsection (2) does not apply with regard to ~~any an HIV test or series of tests~~ for use in the underwriting of individual life, accident and health insurance policies ~~that the person designated by the secretary of health services as the state epidemiologist finds medically significant and sufficiently reliable for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and that the commissioner finds and designates by rule as sufficiently reliable for use in the underwriting of individual life, accident and health insurance policies.~~

SECTION 138. 631.90 (3) (b) of the statutes is amended to read:

631.90 (3) (b) Paragraph (a) does not authorize the use of ~~any an HIV test or series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV~~ to discriminate in violation of s. 628.34 (3).

SECTION 139. 901.05 (2) (intro.) of the statutes is amended to read:

901.05 (2) (intro.) Except as provided in sub. (3), the results of ~~a test or tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV~~ an HIV test, as defined in s. 252.01 (2m), are not admissible during the course of a civil or criminal action or proceeding or an administrative proceeding, as evidence of a person's character or a trait of his or her character for the purpose of proving that he or she acted in conformity with that character on a particular occasion unless the evidence is admissible under s. 904.04 (1) or 904.05 (2) and unless the following procedures are used:

SECTION 140. 938.296 (1) (bm) of the statutes is created to read:

938.296 (1) (bm) "HIV test" has the meaning given in s. 252.01 (2m).

SECTION 141. 938.296 (1) (d) of the statutes is amended to read:

938.296 (1) (d) "~~Significantly exposed~~" "Significant exposure" has the meaning given in s. 252.15 (1) (em).

SECTION 142. 938.296 (2) (intro.) of the statutes is amended to read:

938.296 (2) SEXUALLY TRANSMITTED DISEASE AND HIV TESTING. (intro.) In a proceeding under s. 938.12 or 938.13 (12) in which the juvenile is alleged to have violated s. 940.225, 948.02, 948.025, 948.05, 948.06, or 948.085 (2), the district attorney or corporation counsel shall apply to the court for an order requiring the juvenile to submit to ~~a an HIV test and a test~~ or a series of tests ~~administered by a health care professional~~ to detect the presence of ~~HIV, antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease, each of which tests shall be administered by a health care professional,~~ and to disclose the results of ~~that test or series of those tests~~ as specified in sub. (4) (a) to (e), if all of the following apply:

SECTION 143. 938.296 (2) (b) of the statutes is amended to read:

938.296 (2) (b) The district attorney or corporation counsel has probable cause to believe that ~~the juvenile has significantly exposed the victim or alleged victim~~ has had contact with body fluid of the juvenile that constitutes a significant exposure. If the juvenile is adjudicated delinquent, is found to be in need of protection or services or is found not responsible by reason of mental disease or defect under s. 938.30 (5), this paragraph does not apply.

SECTION 144. 938.296 (4) (intro.) of the statutes is amended to read:

938.296 (4) DISCLOSURE OF SEXUALLY TRANSMITTED DISEASE AND HIV TEST RESULTS. (intro.) On receipt of an application for an order under sub. (2), the court shall set a time for a hearing on the application. If the juvenile has been found not competent to proceed under s. 938.30 (5), the court may hold a hearing under this subsection only if the court first determines that the probable cause finding can be fairly made without the personal participation of the juvenile. If, after hearing, the court finds probable cause to believe that ~~the juvenile has significantly exposed the victim or alleged victim~~ has had contact with body fluid of the juvenile that constitutes a significant exposure, the court shall order the juvenile to submit to ~~a an HIV test or and a test~~ or series of tests ~~administered by a health care professional~~ to detect the presence of ~~HIV, antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease.~~ The tests shall be administered by a health care professional. The court shall require the health care professional who performs the ~~test or series of tests~~ to refrain, ~~notwithstanding s. 252.15 (4) (e),~~ from making the test results part of the juvenile's permanent medical record and to disclose the results of the ~~test tests~~ to any of the following:

SECTION 145. 938.296 (5) (intro.) of the statutes is amended to read:

938.296 (5) DISCLOSURE OF COMMUNICABLE DISEASE TEST RESULTS. (intro.) On receipt of an application for an order under sub. (2m), the court shall set a time for a hearing on the application. If the juvenile has been found not competent to proceed under s. 938.30 (5), the court may hold a hearing under this subsection only if the court first determines that the probable cause finding can be fairly made without the personal participation of the juvenile. If, after hearing, the court finds probable cause to believe that the act or alleged act of the juvenile that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the juvenile's blood, semen, vomit, saliva, urine or feces or other bodily substance of the juvenile, the court shall order the juvenile to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged

act of the juvenile. The court shall require the health care professional who performs the test or series of tests to refrain, notwithstanding s. 252.15 (4) (c), if applicable, from making the test results part of the juvenile's permanent medical record and to disclose the results of the test to any of the following:

SECTION 146. 938.346 (1) (e) of the statutes is amended to read:

938.346 (1) (e) The procedure under s. 938.296 under which the victim, if an adult, or the parent, guardian or legal custodian of the victim, if the victim is a child, may request an order requiring a juvenile who is alleged to have violated s. 940.225, 948.02, 948.025, 948.05, 948.06, or 948.085 (2) to submit to ~~a~~ an HIV test or, as defined in s. 252.01 (2m), and a test or a series of tests to detect the presence of HIV, as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease, as defined in s. 252.11 (1), and to have the results of that test or series of the tests disclosed as provided in s. 938.296 (4) (a) to (e).

SECTION 147. 938.371 (1) (a) of the statutes is amended to read:

938.371 (1) (a) Results of ~~a~~ an HIV test or a series of tests, as defined in s. 252.01 (2m), of the juvenile to determine the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 19. (3m) (d) 15., including results included in a court report or permanency plan. At the time that the test results are provided, the agency shall notify the foster parent, treatment foster parent, relative, or operator of the group home, residential care center for children and youth, or juvenile correctional facility of the confidentiality requirements under s. 252.15 (6).

SECTION 148. 968.38 (1) (bc) of the statutes is created to read:

968.38 (1) (bc) "HIV test" has the meaning given in s. 252.01 (2m).

SECTION 149. 968.38 (1) (d) of the statutes is amended to read:

968.38 (1) (d) "Significantly exposed" "Significant exposure" has the meaning given in s. 252.15 (1) (em).

SECTION 150. 968.38 (2) (intro.) of the statutes is amended to read:

968.38 (2) (intro.) In a criminal action under s. 940.225, 948.02, 948.025, 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney shall apply to the circuit court for his or her county to order the defendant to submit to ~~a~~ an HIV test or and to a test or a series of tests administered by a health care professional to detect the presence of HIV, antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease, each of which tests shall be administered by a health care professional, and to disclose the results of the test or tests as specified in sub. (4) (a) to (c):

SECTION 151. 968.38 (2) (a) of the statutes is amended to read:

968.38 (2) (a) The district attorney has probable cause to believe that the defendant ~~has significantly exposed the alleged victim or victim~~ has had contact with body fluid of the defendant that constitutes a significant exposure. If the defendant is convicted or found not guilty by reason of mental disease or defect, this paragraph does not apply.

SECTION 152. 968.38 (4) (intro.) of the statutes is amended to read:

968.38 (4) (intro.) The court shall set a time for a hearing on the matter under sub. (2) during the preliminary examination, if sub. (3) (a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3) (c) applies; or, subject to s. 971.13 (4), after the determination that the defendant is not competent, if sub. (3) (d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the defendant ~~has significantly exposed the victim or alleged victim~~ has had contact with body fluid of the defendant that constitutes a significant exposure, the court shall order the defendant to submit to ~~a~~ an HIV test and to a test or a series of tests ~~administered by a health care professional to detect the presence of HIV, antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease. The tests shall be performed by a health care professional.~~ The court shall require the health care professional who performs the test to disclose the test results to the defendant. ~~The court shall require the health care professional who performs the test,~~ to refrain, notwithstanding s. 252.15 (4) (c), from making the test results part of the defendant's permanent medical record, and to disclose the results of the test to any of the following:

SECTION 153. 968.38 (5) (intro.) of the statutes is amended to read:

968.38 (5) (intro.) The court shall set a time for a hearing on the matter under sub. (2m) during the preliminary examination, if sub. (3) (a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3) (c) applies; or, subject to s. 971.13 (4), after the determination that the defendant is not competent, if sub. (3) (d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe

that the act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant, the court shall order the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the defendant. The court shall require the health care professional who performs the test to disclose the test results to the defendant. The court shall require the health care professional who performs the test to refrain, notwithstanding s. 252.15 (4) (c), if applicable, from making the test results part of the defendant's permanent medical record and to disclose the results of the test to any of the following:

SECTION 154. 973.017 (4) (a) 1m. of the statutes is created to read:

973.017 (4) (a) 1m. "HIV test" has the meaning given in s. 252.01 (2m).

SECTION 155. 973.017 (4) (b) 1. of the statutes is amended to read:

973.017 (4) (b) 1. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime had a sexually transmitted disease or acquired immunodeficiency syndrome or had had a positive HIV test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV.

SECTION 156. 973.017 (4) (b) 2. of the statutes is amended to read:

973.017 (4) (b) 2. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime knew that he or she had a sexually transmitted disease or acquired immunodeficiency syndrome or that he or she had had a positive HIV test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV.

SECTION 157. Initial applicability.

(1) POSITIVE HIV TEST RESULT REPORTING. The treatment of section 252.15 (7) (b) 5m. of the statutes, as created by this act, first applies to records of test results reported to the state epidemiologist on the first day of the 4th month beginning after the effective date of this subsection.
